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## BOOK NOTES.

EVERY lawyer, every one interested in legal education, every one who has at heart the development of the legal and political sciences, should read more than once the wise and earnest words with which James Bryce closed his twenty-three years of service at Oxford as Regius Professor of Civil Law. Of his valedictory lecture, *Legal Studies in the University of Oxford* (Macmillan, 1893), the greater part is naturally devoted to his own subject, the Roman law, and contains a characteristically judicious estimate and felicitous statement of its value to the English law student ; but the wider title of the address is justified by a most suggestive sketch of the growth of serious legal study at Oxford during the last twenty years. That such a school as he describes, "with the best arranged and most practically useful law examination in the United Kingdom," with such names upon its list of teachers as those of Maine, Holland, Markby, Pollock, Digby, Anson, Dicey and Bryce himself, should, after such a period of labor, produce yearly but twenty to twenty-five candidates for its degree, and that Dr. Bryce should find in these numbers cause for gratulation, may well serve to temper our national haste for quantitative results, and hearten American workers in the same field.

The attack upon the positive theory which Mr. Geo. H. Smith opened some years ago in his *Elements of Right and Law* is renewed in his *Critical History of Modern English Jurisprudence* (San Francisco, Bacon Printing Co., 1893). The difference between Mr. Smith and the modern English positivists really reduces itself to this: he maintains that "natural law" is a part of the law actually recognized and enforced in modern society, and that it is law before it receives any recognition at the hands of legislators or courts ; they deny this, but they do not deny that the instinct and tendencies which make up the so-called law of nature are the ultimate source from which the greater part of all positive law is and always has been derived. This, however, Mr. Smith cannot see. Although he himself defines jurisprudence as "the science of the necessary conditions of rational social life," he cannot see that these "necessary conditions" are, objectively, the same thing as Bentham's "general utility"; and when the positivists deny that the sense of utility, or the instincts of

right and justice, or the dictates of reason are *per se* law, — and this is the one essential article of their legal creed; — Mr. Smith assumes that they deny the existence of any connection or relation between right and law. In asserting that there is no trace of anything like positivism upon the continent of Europe, Mr. Smith shows that he has no acquaintance with the literature of the historical school.

From the rapidly growing literature of the referendum, supplemented, during a brief visit to Switzerland, by personal study of its operation and results, J. W. Sullivan has drawn the material for a popular treatise on *Direct Legislation by the Citizenship* [!] *through the Initiative and Referendum* (New York, Twentieth Century Publishing Co., 1892). Mr. Sullivan is a socialist, and believes that direct popular legislation will check and eventually destroy "plutocracy." He believes, also, that it will do away with "rings" and "machines," and eliminate professional politicians; but he fails to show how, even in its most perfect development, when the compulsory reference of all bills is supplemented by the popular right of initiating them, direct legislation is to be formulated and carried through without organization, or wherein the organization required will differ from that of our present "machines." He shows that the "initiative and referendum" are now practiced by many American labor organizations; but in these very organizations, unless popular impressions are altogether astray, professional leadership and ring rule are phenomena quite as pronounced as in our state and city politics.

Dr. Mary Pútnam Jacobi's *Common Sense Applied to Woman Suffrage* (Putnams, 1894) is a readable and, in parts, an ingenious plea for the political equality of women and men. The argument is mainly based upon the natural-right theory, and upon the assumption that women constitute a social and political "class," which is wrongfully ruled by another class, the men. In the opening chapters of the book the assumed class antagonism between women and men is constantly compared, and with every appearance of seriousness, to that which existed between free whites and negro slaves before our civil war. The gradual acquisition by women of complete economic liberty, and the now frequent extension to them of the local vote, are treated as direct steps toward political power. Ostrogorski's *Rights of Women* is several times cited to show the extent to which the sex has already been enfranchised; but that writer's pregnant distinction between economic and political rights, and his demonstration that local suffrage is granted to women precisely because it is an economic rather than a political right, are not noticed.

The *Revue Générale de Droit International Public* (Paris, A. Pedone, 1894) is a new journal designed not only to cover the field of international law in the usual sense of the term, but also to embrace such topics as diplomatic history, penal law and the law of public administration. The editors, MM. Antoine Pillet and Paul Fauchille, include among their patrons such names as Clunet, Lehr, Pradier-Fodéré, Renault and Lyon-Caen. The first number of the review contains three leading articles, a chronicle of international events, a bibliographical bulletin, and reprints of certain documents, such as the agreement between Germany and Great Britain for the definition of their respective spheres of action in the Gulf of Guinea; the convention between Belgium, France, Greece, Italy and Switzerland, for the modification of the Latin Union; and so much of the last annual message of President Cleveland to Congress as relates to foreign affairs. Of the leading articles, the first, which is by M. Pillet, is of an introductory character, and relates to the elements, the domain and the objects of public international law. The other two, by Professor F. de Martens and Professor Renault respectively, treat of certain aspects of the Behring Sea Arbitration.

In the first volume of Mr. Huxley's collected essays, entitled *Method and Results* (Appleton, 1893), are to be found four of his well-known contributions to political discussion. The four are all in the same field, and each has a bearing on the origin and validity of current doctrines in reference to governmental activity. Mr. Huxley has always wielded a vigorous pen; and his lusty assaults have made sad havoc with the philosophical supports of Spencer's and George's theories. Nor have the earlier systems of Hobbes and Locke and Rousseau fared much better. The essayist's mission has been, as he says, "to grub up those old stumps of the *a priori*, which stand in the way of the very foundations of a sane political philosophy." No student of scientific politics can afford to leave Mr. Huxley's work out of account; and it is of the greatest convenience to have this work presented in a single volume.

*The Natural Law of Money*, by William Brough (Putnams, 1894), advocates entire non-interference of the government in currency and banking, even to the repeal of all legal-tender provisions. Each community would naturally choose that kind of money — gold, silver, or paper — best adapted to its needs. A community cannot progress without money, and all mandatory action on the part of the government is useless and worse than useless, for it interferes with the elasticity of the money supply and introduces confusion in regard to

the nature of the money function. All our financial legislation since 1862 — legal-tender acts, national-banking system, Bland and Sherman bills — has been mistaken. The Canadian banking system is held up as a model. There is little new in the book, but it is a clear presentation of the *laissez-faire* theory of money and banking.

Mr. Charles W. Smith, who writes "after thirty years' experience in the commercial world," has published a work with the somewhat startling title: *Commercial Gambling the Principal Cause of Depression in Agriculture and Trade* (London: Sampson Low, Marston & Co., 1893). Mr. Smith maintains that the present low price of all commodities and the consequent depression of trade are due to speculative or "short" sales of grain, provisions and cotton. He attributes seventy-five per cent of the fall in the price of most commodities in the last fifteen years to this cause alone. At the same time he maintains that buying in to cover such sales does not raise prices, because the sellers for the most part hold actual produce against other sales, and are therefore not forced to buy, — or in other words they are not "short" sellers at all. The remedy advocated is the enactment of laws on the lines of the Hatch and Washburn bills.

Professors Brentano, of Munich, and Lester, of Heidelberg, have begun the publication of a series of reprints and translations of important German and foreign works, under the title: *Sammlung Älterer und Neuerer Staatswissenschaftlicher Schriften des In- und Auslandes* (Leipzig, Duncker & Humblot). The first number is a translation of Beatrice Potter's work on coöperation. More interesting to foreigners are the two following numbers containing reprints of (1) "Die drei Flugschriften über den Münzstreit der Sächsischen Albertiner und Ernestiner um 1530," edited by Professor Lotz; and (2) the monograph on "Liquidation und Restitution der Deutschen Volkswirtschaft nach dem Dreissigjährigen Kriege," edited by Dr. Gotheim. The first of these works has long been famous as containing perhaps the most remarkable discussion of currency matters in Germany, and has been much quoted by German writers. It is printed both in the original text and in a modern German version, and will be welcome to students of economic history. The second work is of more particular interest to investigators of German history and economics, and is for Germany very much what the dialogue of Stafford or Hales is for England. The fourth number in the series is a translation of some of the pamphlets by James Anderson on "Land and the Corn Laws," which have become exceedingly rare in

the original. It is very much to be hoped that the American and the British Economic Association will soon begin to carry out their promises and do for their respective countries what these two professors are doing for Germany.

The first volume of the *Dictionary of Political Economy*, edited by Mr. Inglis Palgrave, the separate instalments of which have been noticed from time to time in this QUARTERLY, has now been published by Macmillan. It has been edited on the whole with consummate skill, and is far superior to the unwieldy German *Handwörterbuch*, as well as to the rather one-sided and often superficial French *Dictionnaire*. The editor has been very catholic in his choice of collaborators, who comprise men of the most divergent schools and interests. Special attention is given to the bibliography and to the history of economic institutions and doctrines, without at all neglecting the positive theory of actual industrial life. Many of the definitions are models of brevity. The articles on the whole are just and impartial, although we find occasional lapses, as in the article on "Betterment." It goes without saying that the dictionary will be absolutely indispensable to all serious students. The present volume finishes the letter E. The work will be published hereafter, not in instalments, but in complete volumes.

Swan Sonnenschein & Co. have recently issued a translation by the Rev. Arthur Lloyd of the learned work on *Agriculture Insurance*, by Prof. P. Mayet. This is a volume originally written for official use in Japan, and is devoted to a discussion of the Japanese agricultural distress and the best means of relieving it. The author, through his semi-official position, has acquired a thorough acquaintance with Japanese conditions. He attempts to effect the elevation of the peasantry by introducing institutions such as savings banks, agricultural credit offices, and others which have already proved their utility on the European continent. The new feature of the book, however, is the great extension given to the idea of compulsory insurance, which the author thinks should be applied not only in the case of fire, but also for all serious injuries that can affect agriculture, such as hail, floods, insects, plant diseases, typhoons, earthquakes, *etc.* He recommends, in short, a complete system of house, cattle and crop insurance. In view of the fact that the land tax in Japan amounts to seventy-six per cent of the total revenues, and to about one third of the net produce of the land, the importance of the problem becomes apparent. Incidentally, a complete sketch of the history and condition of Japanese public finance

is given. From the Japanese point of view it would seem that Professor Mayet's plan has much to recommend it. Some of his previous propositions have already been adopted by the Japanese government. Whatever may be the fate of the present project, his work will be found to be most suggestive. A series of important tables in the appendix contain detailed statements of the "Agricultural Distress Funds" as applied in recent years in Japan.

A long-felt want has been partially satisfied by J. J. O'Meara's *Municipal Taxation at Home and Abroad* (London, Cassell, 1894). It may safely be said that not a single work on public finance in general has given any adequate attention to the subject of municipal revenue. The present volume is interesting and valuable chiefly in that it contains full information about pretty much every country in Europe on the subject of local taxation. The chapter on Switzerland is very inadequate, and that on the United States is exceedingly fragmentary. The weakness of the book for scientific purposes is the complete absence of any citation or reference to authorities. The author, who describes himself as a Dublin solicitor, makes out a very strong case for the relative injustice of the British local system. The proposed remedies—the municipal probate duty and the local income tax—are not apt to commend themselves to the good judgment of British reformers. But as a convenient and fairly accurate statement of the European facts the book will receive a hearty welcome from students of finance.

In consequence of the renewed interest taken in the temperance legislation in Great Britain, an English member of Parliament, Mr. W. Rathbone, commissioned Mr. E. L. Fanshawe to visit this country in order to study our system. The result of the extended investigation has now appeared under the title: *Liquor Legislation in the United States and Canada* (London, Cassell, 1894). The investigation covers all the important states in this country, with a chapter on Canada, and it is beyond all doubt the fullest and most valuable report that has ever yet been printed on the subject. Prohibition, local option, high license and state dispensaries are all treated in turn with most interesting detail, based upon personal observation. Mr. Fanshawe shows the faculty of a trained observer, and is clearly endowed with a sane judgment. His work is in every respect an admirable production.

In *Social Peace, a Study of the Trade-Union Movement in England* (London, Swan Sonnenschein & Co., imported by Scribners, 1893), Dr. G. von Schulze-Gaevernitz issues a somewhat abridged English

version of his two-volume work which was reviewed in the *POLITICAL SCIENCE QUARTERLY*, VI, 348 (June, 1891). He now adds an introduction which throws a somewhat amusing light on the condition of the labor question in Germany. The work is an excellent one. It is translated by Mr. C. W. Wicksteed and edited by Mr. Graham Wallas.

*The Handbook of Sociological Information*, with especial reference to New York City, which was prepared for the City Vigilance League by Dr. William Howe Tolman and Dr. William I. Hull, has passed to a second edition, which contains as much again matter as the first. The new matter is valuable. It includes a description of the institutions and associations in New York City which are designed to modify and ameliorate social conditions, and which are said to be representatives of "applied sociology." Each institution is described by a writer who knows his subject at first hand and signs his name. Such work has been needed, and will call forth the thanks of every sociological student and of every philanthropic worker. The first and older part of the book, purporting to be a bibliography of sociology, is unsatisfactory as a whole, though possessing many good features. In making it up the editors do not seem to have been guided by any definite conception as to what sociology is and what it is not. This part can only be described as a partial list of books and magazine articles on sociology, political economy, political science, charity, criminology and penology, social ethics, temperance, womanhood, university settlements, the Salvation Army, and many other important subjects.

*Louis Paoli's Le Code Pénal d'Italie et son Système Pénal* is a historical, descriptive and critical examination of the code of June 30, 1889. The author concludes that that code is "a treatise on penal philosophy." It has held in the main to the older views of criminal responsibility, but not without regard to the doctrines of criminal anthropology, especially in its dealing with the criminal insane. The questions of penitentiary methods, of conditional liberation, of the indeterminate sentence and of recidivism have been considered, he thinks, with great care. The abolition of capital punishment truly reflects Italian opinion. In short, to M. Paoli "the theoretical value of the new code seems undeniable; its practical value time will determine."